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a purchaser of the property, who assumed the mortgage debt for a deficiency after sale of the property, is by suit in equity, not by action at law, since the assumption of the mortgage debt was solely for the benefit of the mortgagor, and the right of the mortgagee to enforce the assumption agreement is based on the theory of quasi subrogation of the mortgagee to the mortgagor's right to enforce that debt.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 102.]

2. Mortgages (§ 285*)—Mortgagee's Right to Enforce Assumption of Debt Becomes Fixed by His Acceptance and Notice.—The right of the mortgagee to enforce the assumptions of the mortgage debt by grantee of the mortgagor becomes fixed when the mortgagee has obtained knowledge of the assumption of the debt, has accepted it, and has acted upon the faith of it, and thereafter the mortgagor cannot release his grantee from such assumption to the prejudice of the mortgagee.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 86.]

3. Mortgages (§ 285*)—Mortgagee's Right to Enforce Assumption of Debt Held to Have Become Fixed.—Where an intending purchaser of property, subject to a trust deed which he was to assume, inquired of the holder of the notes as to their amount, and as to the possibility of an extension, to which the holder agreed, and after completing the purchase paid a portion of the principal and interest, and secured a further extension, the holder of the note had acted upon the assumption of the debt by the purchaser, so that its right to hold the purchaser thereon was not defeated by a reconveyance of the property through mesne conveyances to the original grantor, who again assumed the payment of the debt.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 86.]

Appeal from Circuit Court of City of Norfolk.

Suit by Hubard & Appleby, Inc., against J. Ernest Thacker and others, to recover the balance due on notes secured by trust deed after the sale of the property. From a decree dismissing the bill, complainant appeals. Reversed, and final decree entered for complainant.

J. G. Martin, of Norfolk, for appellant.

R. B. Spindle, Jr., and *T. D. Savage*, both of Norfolk, for appellee.

CROSBY v. COMMONWEALTH.

Jan. 19, 1922.

[110 S. E. 270-1.]

1. Criminal Law (§ 507 (1*))—Purchaser an Accomplice of Person Illegally Selling Intoxicating Liquor.—One who purchases intoxicat-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

ing liquors from one illegally selling the same is an accomplice of the seller.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 75.]

2. Criminal Law (§ 510*)—Conviction May Be Rested upon Uncorroborated Testimony of Accomplice.—Conviction of one accused of an illegal sale of intoxicating liquors may rest upon uncorroborated testimony of a single accomplice, though such evidence should be acted upon by the jury with great caution.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 77.]

3. Criminal Law (§ 1173 (2)*)—Refusal to Instruct as to Accomplice's Testimony Held Not Prejudicial.—In prosecution for illegal sale of intoxicating liquors, held, that accused was not prejudiced by error of the court on refusing to instruct that testimony of an accomplice should be received with caution; the accomplice being corroborated by a police officer who saw the accused in a house just before the alleged sale, saw the accomplice enter the house, and found whisky in his possession when he came out of the house.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 604.]

Error to Corporation Court of Norfolk.

Lee Crosby was convicted of an illegal sale of intoxicating liquor, and brings error. Affirmed.

N. T. Green, of Norfolk, for plaintiff in error.

John R. Saunders, Atty. Gen., and *J. D. Hank, Jr., Asst. Atty. Gen.*, for the Commonwealth.

PURNELL *v.* COMMONWEALTH.

Jan. 19, 1922.

[110 S. E. 271.]

Criminal Law (§ 1160*)—Approved Conviction Supported by Some Evidence Will Not Be Reversed.—In a prosecution for attempted rape, in which the defense was an alibi, where there was no complaint as to the rulings on evidence nor the law applicable, and the judge declined to set the verdict aside, the conviction will be affirmed where it cannot be said that verdict was without supporting evidence.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 620.]

Error to Circuit Court, Northampton County.

Edward Purnell was convicted of attempted rape, and he assigns error. Affirmed.

S. James Turlington and *Elmer W. Somers*, both of Accomac, for plaintiff in error.

John R. Saunders, Atty. Gen., and *J. D. Hank, Jr.*, and *Leon M. Bazile, Asst. Attys. Gen.*, for the Commonwealth.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.